

TITLE 73
GENERAL CODE PROVISIONS

CHAPTER 4
FREE EXERCISE OF RELIGION PROTECTED

73-401. DEFINITIONS. As used in this chapter unless the context otherwise requires:

(1) "Demonstrates" means meets the burdens of going forward with evidence, and persuasion under the standard of clear and convincing evidence.

(2) "Exercise of religion" means the ability to act or refusal to act in a manner substantially motivated by a religious belief, whether or not the exercise is compulsory or central to a larger system of religious belief.

(3) "Government" includes this state and any agency or political subdivision of this state.

(4) "Political subdivision" includes any county, city, school district, taxing district, municipal corporation, or agency of a county, city, school district, or municipal corporation.

(5) "Substantially burden" means to inhibit or curtail religiously motivated practices.

[73-401, added 2000, ch. 133, sec. 2, p. 352.]

73-402. FREE EXERCISE OF RELIGION PROTECTED. (1) Free exercise of religion is a fundamental right that applies in this state, even if laws, rules or other government actions are facially neutral.

(2) Except as provided in subsection (3) of this section, government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability.

(3) Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person is both:

(a) Essential to further a compelling governmental interest;

(b) The least restrictive means of furthering that compelling governmental interest.

(4) A person whose religious exercise is burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. A party who prevails in any action to enforce this chapter against a government shall recover attorney's fees and costs.

(5) In this section, the term "substantially burden" is intended solely to ensure that this chapter is not triggered by trivial, technical or de minimis infractions.

[73-402, added 2000, ch. 133, sec. 2, p. 353.]

73-403. APPLICABILITY. (1) This chapter applies to all state laws and local ordinances and the implementation of those laws and ordinances, whether statutory or otherwise, and whether enacted or adopted before, on or after the effective date of this chapter.

(2) State laws that are enacted or adopted on or after the effective date of this chapter are subject to this chapter unless the law explicitly excludes application by reference to this chapter.

(3) This chapter shall not be construed to authorize any government to burden any religious belief.

[73-403, added 2000, ch. 133, sec. 2, p. 353.]

73-404. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application and to this end the provisions of this act are severable.

[73-404, added 2000, ch. 133, sec. 2, p. 353.]